

Fact Sheet for Married / Divorced Mothers

Based on Tennessee Code Annotated § 36-2-304 – Presumption of Parentage

ATTENTION: MARRIED MOTHERS!

If you are married when:

- your child is born; or
- your child is conceived; or
- any time during the 300 days before the birth of your child . . .

Tennessee law states that your spouse is the legal parent of your child and their name must go on the child's birth certificate.

The length of time you have been separated or living apart from your spouse **does not** change the requirement that your spouse's name and information **must** go on your child's birth certificate.

ATTENTION: DIVORCED MOTHERS!

If you finalized your divorce during the 300 days before your child's birth, your former spouse is presumed to be the legal parent.

Female/Male Couples: Your former husband's name **must** go on your child's birth certificate unless you have a divorce decree that *specifically states that your husband or former husband is not the biological parent of the child in question, based upon a genetic test that shows he is not the father, and the test results are attached to the decree.* If your divorce decree has this information, you will need to provide the hospital birth clerk a certified copy of the final divorce decree.

Same Sex Couples: Your former spouse's name **must** go on your child's birth certificate unless you have a divorce decree that *specifically states that your spouse or former spouse is not the legal parent of the child in question.* If your divorce decree has this information, you will need to provide the hospital birth clerk a certified copy of the final divorce decree.

WHAT IF I REFUSE TO GIVE THE BIRTH CLERK MY SPOUSE OR FORMER SPOUSE'S NAME?

Female/Male Couples: If you refuse to put your husband or former husband's name on your child's birth certificate, the hospital is required to enter 'Mother Refused Information' in the father's name section of the birth certificate. As a result of this, you will not be able to add the biological father of your child to the birth certificate until you have a certified copy of a final court order that states your husband or former husband is not the child's biological parent based upon a genetic test that shows he is not the father, with the genetic test results attached to the order. This also means the 'Mother's Copy' of the child's birth certificate will list the father's name as 'Mother Refused Information'.

Same Sex Couples: If you refuse to put your spouse or former spouse's name on your child's birth certificate, the hospital is required to enter 'Mother Refused Information' in the father's name section of the birth certificate. As a result of this, you will not be able to add the biological parent of your child to the birth certificate until you have a certified copy of a final court order that states your spouse or former spouse is not the child's biological parent. This also means the 'Mother's Copy' of the child's birth certificate will list the father's name as 'Mother Refused Information'.

WHAT ARE YOUR OPTIONS?

If your spouse or ex-spouse's name (or 'Mother Refused Information'), is placed on your child's birth certificate and is not the biological parent of your child, there are ways to have the spouse/ex-spouse's name removed from the birth certificate and the biological parent's name added. You should contact a private attorney to pursue the matter through court.

By putting your spouse or ex-spouse's name on the birth certificate at the hospital, you can begin the steps to amend the birth certificate with the correct parent's information.

Contact the hospital birth clerk or the **TN Voluntary Acknowledgment of Paternity (TN VAoP) program (1-800-457-2165 or 615-741-6050)** for the handouts, *'Information for Parents Getting a Divorce'* or *'Information for Parents Divorced Less Than 300 Days Prior to Birth'* for correct information to include in the court order.